

PETER W. ALFERT, SBN 83139
HINTON ALFERT & KAHN LLP
200 Pringle Ave., Suite 450
Walnut Creek, California 94596
Telephone: (925) 279-3009
Facsimile: (925) 279-3342

TODD BOLEY, SBN 64119
1212 Broadway, 16th Floor
Oakland, CA 94612
Telephone: (510) 836-4500
Facsimile: (510) 649-5170

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

LARRY EVANS, MEGAN EVANS, M.E., a
minor by and through his guardian ad litem
LARRY EVANS, TERESA GREEN, A.S., a
minor by and through his guardian ad litem
TERESA GREEN, HEATHER CARRANZA,
L.C., a minor by and through her guardian ad
litem HEATHER CARRANZA, MICHELE
SMITH, M.M., a minor by and through his
guardian ad litem MICHELE SMITH,
ARKEITHIA JOHNSON, J.L., a minor by and
through his guardian ad litem ARKEITHIA
JOHNSON, ROBERTO VIELMAS, MARIA
BELTRAN, G.V-B. a minor by and through her
guardian ad litem, ROBERTO VIELMAS, S.G.,
a minor by and through his guardian ad litem,
RAJ DITTA, MARIO ROJAS, DIOCELINA
OCHOA, M.R., a minor by and through his
guardian ad litem, MARIO ROJAS,

Plaintiffs,

v.

ANTIOCH UNIFIED SCHOOL DISTRICT,
THERESA ALLEN-CAULBOY, MICHAEL
GREEN, DAVID WAX, KEITH ROGENSKI,
KAI MONTGOMERY, and DOES 1-30,

Defendants.

No. C-13-1476-LB-ARB

**STIPULATION & ORDER
REGARDING PRIVILEGED
MATERIALS SUBMITTED FOR
EARLY SETTLEMENT
CONFERENCE**

1 Plaintiffs LARRY EVANS, MEGAN EVANS and M.E., a minor by and through his
 2 guardian ad litem LARRY EVANS, TERESA GREEN and A.S., a minor by and through his
 3 guardian ad litem TERESA GREEN, HEATHER CARRANZA and L.C., a minor by and through
 4 her guardian ad litem HEATHER CARRANZA, MICHELE SMITH and M.M., a minor by and
 5 through his guardian ad litem MICHELE SMITH, ARKEITHIA JOHNSON, J.L., a minor by and
 6 through his guardian ad litem ARKEITHIA JOHNSON, ROBERTO VIELMAS, MARIA
 7 BELTRAN, G.V-B. a minor by and through her guardian ad litem, ROBERTO VIELMAS, S.G., a
 8 minor by and through his guardian ad litem, RAJ DITTA, MARIO ROJAS, DIOCELINA
 9 OCHOA, M.R., a minor by and through his guardian ad litem, MARIO ROJAS, (collectively
 10 herein "Plaintiffs"), ANTIOCH UNIFIED SCHOOL DISTRICT, THERESA ALLEN-CAULBOY,
 11 MICHAEL GREEN, DAVID WAX, KEITH ROGENSKI, and KAI MONTGOMERY (collectively
 12 herein "Defendants"), through their undersigned counsel hereby stipulate as follows:

13 IT IS HEREBY STIPULATED by and between the parties hereto that:

14 1. This action arises out of allegations that defendant Theresa Allen-Caulboy, a teacher
 15 at MNO Grant Elementary School in Antioch, California, subjected the student plaintiffs to verbal
 16 and physical abuse while they were students in Ms. Allen-Caulboy's class.

17 2. In connection with the upcoming settlement conference scheduled for December 2,
 18 2013 before Magistrate Judge Spero, the parties intend to disclose and exchange information prior
 19 to and/or at the Settlement Conference.

20 3. Some of the materials and information to be exchanged in connection with the
 21 settlement conference would, in the absence of disclosure, be privileged and not discoverable.

22 4. In an effort to encourage settlement, the parties stipulate that any statements of the
 23 parent plaintiffs presented by way of the videotape created by plaintiffs to present to the parties and
 24 Magistrate Judge and disclosed in connection with the settlement conference will not be construed
 25 as a waiver of the attorney client privilege and no waiver of said privilege will be claimed in
 26 subsequent discovery based on the videotape if the matter is not resolved at the settlement
 27 conference.

28 5. This stipulation does not prevent the parties from discovering information or

evidence that would have been discoverable absent the disclosure in connection with the settlement conference.

DATED: November 26, 2013

HINTON ALFERT & KAHN LLP

/s/

Peter W. Alfert
Attorney for Plaintiffs, LARRY EVANS, et al.

DATED: November 26, 2013

DAVIS & YOUNG, APLC

/s/

Mark Davis
Attorney for Defendant, THERESA ALLEN-
CAULBOY

DATED: November 26, 2013

BERTRAND, FOX & ELLIOT

/s/

Michael Wenzel
Attorney for Defendant, DAVID WAX

DATED: November 26, 2013

ANWYL, SCOFFIELD & STEPP, LLP

/s/

James T. Anwyl
Attorney for Defendant, KAI MONTGOMERY

DATED: November 26, 2013

EDRINGTON, SCHIRMER & MURPHY

/s/

Timothy P. Murphy
Attorney for Defendants, ANTIOCH UNIFIED
SCHOOL DISTRICT and KEITH ROGENSKI

DATED: November 26, 2013

STUBBS & LEONE

/s/

Louis Leone
Attorney for Defendant, MICHAEL GREEN

ORDER

THE PARTIES HAVING STIPULATED THERETO AND GOOD CAUSE APPEARING
THEREFORE, it is hereby ordered that:

1. Any statements of the parent plaintiffs presented by way of the videotape created by plaintiffs to present to the parties and Magistrate Judge and disclosed in connection with the settlement conference will not be construed as a waiver of the attorney client privilege and no waiver of said privilege will be claimed in subsequent discovery based on the videotape if the matter is not resolved at the settlement conference.

2. The parties are not prevented from discovering information or evidence that would have been discoverable absent the disclosure in connection with the settlement conference.

DATED: December 3, 2013



U.S. MAGISTRATE JUDGE LAUREL BEELER